



Plaintiffs Edge Capture L.L.C. and Edge Specialists, L.L.C. (collectively “Edge”) respectfully move this Court to dismiss Defendant Wolverine Trading, L.L.C.’s and Defendant Wolverine Execution Services, L.L.C.’s (collectively “Wolverine”) state law counterclaims and counterclaim of inequitable conduct.<sup>1</sup>

Wolverine’s state law counterclaims should be dismissed under Federal Rule of Civil Procedure 12(b)(6). The counterclaims fail to provide fair notice of the claims and the grounds upon which they are based. The state law counterclaims, moreover, contain nothing beyond threadbare recitals of the elements of each cause of action. Wolverine’s state law counterclaims fail to meet the minimum pleading standards required by law. *See Bell Atlantic Corp. v. Twombly*, 127 S. Ct. 1955 (2007); *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009).

Moreover, Wolverine’s inequitable conduct counterclaims must be dismissed for failure to meet the heightened pleading standards of Federal Rule of Civil Procedure 9(b). While the bare-boned allegations assert the supposed intentional withholding of prior art from the patent office during prosecution of the Edge patents, Wolverine fails to plead any facts supporting the conclusory allegations, particularly the allegations of materiality and intent to deceive the U.S.P.T.O.

This Motion is based upon this Motion, the attached Notice of Motion and Memorandum of Law, the papers and pleadings on file in this action, and such other and further evidence as may subsequently be presented to the Court.

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<sup>1</sup> Defendants Wolverine Trading, L.L.C. and Wolverine Execution Services, L.L.C.’s counterclaims allege inequitable conduct at Count V, and the state law counterclaims of (1) misuse of confidential information at Count VI, (2) violation of the Illinois Consumer Fraud and Deceptive Business Practices Act at Count VII, (3) common law unfair competition at Count VIII, and (4) unjust enrichment at Count IX. (D.E. 147.)

Dated: May 4, 2011

Respectfully submitted,

By: /s/ Patrick G. Burns

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**SPECIALISTS, L.L.C.**

**CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that on May 4, 2011, he caused a true and correct copy of **PLAINTIFFS EDGE CAPTURE L.L.C.'S AND EDGE SPECIALISTS, L.L.C.'S MOTION TO DISMISS DEFENDANT WOLVERINE'S STATE LAW AND INEQUITABLE CONDUCT COUNTERCLAIMS AND AFFIRMATIVE DEFENSES** to be served on the below parties through the CM/ECF system:

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/s/ Patrick G. Burns  
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